

You see, when we set out we had three objectives: One was to cover all the American people. We flunked. Another was to invest in prevention, wellness, and chronic disease management. The doctor and I both say we haven't come anywhere close to doing that. The third and most important was to make sure it is fiscally sustainable. CBO, CMS, wherever you want to go, the only way this is fiscally sustainable is if the independent Medicare advisory board continues to cut reimbursements, the scope of coverage, to meet how much we are willing to spend on health care to say it is affordable.

I don't believe that is reform. I believe that is legislation that picks winners and losers, and that is not the role of the Senate of the United States.

I yield to the good doctor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. I want to raise an issue. It was raised in the Finance Committee markup; it was raised in the health care markup. I have behind me the Medicare cuts, and I understand they have been slightly reduced in home health—in the rebuild—but we are going to cut Medicare. We are not going to cut it significantly in the fraud—\$2 billion. That is where the real waste is.

The Senator from Rhode Island came down here and said we are trying to scare people, but when we offered the opportunity for the chairman of the committee to prohibit rationing of health care in this country, both the chairman and the Senator from Rhode Island voted against it. It was simple, straightforward, saying no matter what we do in health care, we are not going to do what other countries have done, and that is ration health care. Straight up-and-down votes—party-line votes—against it.

In fact, we are going to ration health care. That is what this bill does. The way we are going to control cost is through the mechanisms outlined in this bill that are going to allow government bureaucrats to decide what you can get treated for, when you can get treated for it, and where you can get treated for it. The rebuttal to that is: In Medicare, it is already illegal for them to ration care, so we don't need a prohibition. The fact is Medicare is rationing right now. They are rationing virtual colonoscopies, they are rationing bone densitometry, they are rationing Epogen, they are rationing Neupogen—two key drugs to maintain survival during the treatment of chemotherapy. They are practicing medicine.

So when given the opportunity to vote and put an absolute prohibition on the rationing of health care, what did the chairman of the Finance Committee do? He voted against that. Because what he recognizes is the ultimate plan. And the answer to Senator BURR's question is: This will collapse. It is not going to be sustainable. The Medicare cuts won't be made by us. We

will put it off on a commission and say: Oh, we had to do it, and the result of that will be rationing.

The other result will be what the Senator from Vermont actually wants, which is a single-payer, government-run system. That is why he is intellectually honest. He brought it to the floor and said this is how I think we ought to solve health care. We ought to have the government run it, and we ought to have the government make the decisions. He was honest about it. That is where this bill is going. So if you are a Medicare patient, you should be concerned. If you are a Medicare Advantage patient, you should be concerned.

I have had criticism leveled at me because I do what the chairman of the Finance Committee suggests—I make competitive bidding for Medicare Advantage. But there is a big difference. Mine has no cuts in benefits. They cut benefits 50 percent, in terms of the Medicare Advantage differential.

There are three things you can do to fix health care in this country: You can incentivize prevention and the treatment of chronic disease based on outcome; you can create transparency so that purchasers in the market can actually make a judgment about value and quality; and you can assist those who are on the lower rungs of the economic ladder to get the same kind of care we get. Those are the three things you can do.

I readily admit we don't have a great competitive model in the insurance industry. I want to change that. We had Senator WYDEN come to the floor and say that he loves the free enterprise spirit, yet we want to put an artificial fix in terms of the insurance company, in terms of what you have to have for a return. What if an insurance company came up with 20 percent greater efficiency in terms of outcomes and benefits? They still have to spend that money? In the name of the free enterprise system we are going to kill free enterprise? As a practicing physician, I bristle at the way I run into insurance companies. There is no question about it. We need to fix that.

The point Senator BURR was making is this says it is this way or the highway, when the option we offered—the Patients' Choice Act—cuts taxes, doesn't raise taxes; expands exactly to the level or beyond of this bill and it does at in a faster rate. It extends the life of Medicare. It gives Medicaid patients the same kind of care we get. But it was defeated in committee on a party-line vote. It was filed as an amendment here but not accepted. We had 10 amendments voted on from our side on 2,400 pages of legislation—10 amendments. So it is not about being bipartisan, it is about you have to take this or leave it.

What the American people ought to pray for is that somebody can't make the vote tonight. That is what they should be praying for, so that we can actually get the middle—not me, not

mine. I understand I am way over here. But we ought to get the middle of America and the middle of the Senate a bill that can run through this country and actually do what we say we all want to do. There is a large difference of opinion, and it is not rhetoric that is unfounded, as Senator BURR outlined, and as Dr. BARRASSO outlined with an estimate by NFIB of 1.6 million jobs lost. That may be old data, because who knows what the data is now. We haven't had a chance to look at it, because 30 hours after the bill is introduced for cloture and the cloture motion is filed, we are going to vote on it. I am not sure this is a great way to run the country.

What is in the bill? There are zero guarantees that taxpayers won't finance abortion.

There are zero prohibitions on the rationing of health care—zero. There is not one shred of evidence that we are not going to ultimately ration health care under this bill. We are. And the only reason you would vote against a rationing amendment is because you intend to see rationing carried out.

There are zero Senators required to enroll in either Medicaid or a government-run option, either through OPM or Medicaid.

There are now 10 new taxes created. There are 71 new government programs created. There are 1,697 times that the Secretary of HHS is going to write the regulations, and based on CRS calculations there are between 15,000 and 20,000 new Federal employees who are going to be required to carry out this legislation.

There are 3,607 times, before we got the Reid amendment, that the legislation says the word "shall." "Shall" is a very important word because the word "shall" takes away your options. There is no option when the word "shall" is used. The word "shall" also says whoever is directing the "shall" obviously has more wisdom, more knowledge, more experience than the person the "shall" is applied to.

What we have said is, in all our wisdom, in all our many years of practicing medicine and being involved in the care of patients, that 3,607 times we are going to tell the American people what to do.

One of the big "shall also's" that I do not think will ever hold scrutiny before the Supreme Court is, you shall buy an insurance policy. That doesn't fit anywhere in the Constitution that I read. If you do the legal research on it, as my staff lawyers from the Judiciary Committee have done, it is highly unlikely that will ever hold up. So the whole premise of a large portion of the taxes collected in this bill will be out the window.

It also will totally change, through adverse selection, all of the insurance premiums in this country because, if you do not have an individual mandate making people buy insurance, the costs relative to the illness and the age, even though we have compressed the ratios, will rise exorbitantly.